



ITW

Attorney Docket No.: **43888-441**
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Akiko FUJINO, et al. : Customer No. 53080
Application No.: 10/577,494 : Confirmation No.: 6772
Filed: April 27, 2006 : Group Art Unit: 1795
For: LITHIUM ION SECONDARY BATTERY : Examiner: CYNTHIA K. LEE

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed June 9, 2009, having a shortened statutory period for response set to expire July 9, 2009, wherein the Examiner required restriction between the following distinct Species:

Species I - Claim 3, Figure 1; and
Species II - Claim 4, Figure 2.

Applicants elect Species I (Fig. 1), with claims 1-3 and 5 readable thereon, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims which the Examiner has indicated are patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: _____

7/8/09

By: _____

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